



U.S. Department of Justice

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DMP:AAS/MAA/RMP
F. #2017R05903

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November 28, 2023

By ECF

The Honorable Ann M. Donnelly
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Huawei Technologies Co., Ltd., et al.
Criminal Docket No. 18-457 (S-3) (AMD)

Dear Judge Donnelly:

The government writes to apprise the Court of the status of its second supplemental motion pursuant to Section 4 of the Classified Information Procedures Act ("CIPA"), 18 U.S.C. app. III (the "CIPA 4 Submission") in the above-referenced case. At the May 25, 2023 status conference, the government stated that it anticipated filing the CIPA 4 Submission in fall 2023. For the reasons below, the government will not be able to file the CIPA 4 Submission on that timeframe and instead anticipates filing by March 2024.

The government has worked diligently to review potentially discoverable classified material and to prepare the CIPA 4 Submission. In the course of the review, the government encountered technical issues with a significant percentage of the potentially discoverable classified material, which impeded the review; the government has been working with the relevant government offices to address those issues.

In addition, as the Court is aware, the government's CIPA Section 4 Submission must include supporting declarations from senior government officials. See United States v. Abu-Jihaad, 630 F.3d 102, 141 (2d Cir. 2010) (holding that CIPA submission must be filed with declaration of the "head of the department which has control over the matter, after actual personal consideration by that officer" (quoting United States v. Aref, 533 F.3d 72, 80 (2008))); see also Dkt. No. 61 at 5-8 (government's memorandum of law in support of its motion for pretrial conference pursuant to CIPA, explaining discovery process pursuant to Section 4 of CIPA).

Given the technical issues and the need to obtain supporting materials to comply with Aref and Abu-Jihaad, and following consultation with the relevant government offices, the

government anticipates filing the CIPA 4 Submission by March 2024. The government will file the CIPA 4 Submission earlier, if feasible.

Respectfully submitted,

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